

10/671,229

SEP 01 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No. 10/671,229
Confirmation No. 8204
Filing Date September 24, 2003
Inventor Leonard Forbes
Assignee Micron Technology, Inc.
Group Art Unit 2814
Examiner L. Pham
Attorney's Docket No. MI22-2272
Customer No. 021567
Title: Electronic Apparatus, Silicon-on-Insulator Integrated Circuits, and
Fabrication Methods

37 CFR § 1.144 PETITION FROM REQUIREMENT FOR RESTRICTION

To: MS Amendment
Commissioner for Patents and Trademarks
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REMARKS

Applicant respectfully requests review by the Director of the species restriction requirement in the prior June 2, 2005 Office Action, which was timely traversed by the Applicant and subsequently made final by the Office. Pursuant to 37 C.F.R. 1.181(d) and 1.144, no fee is believed due, however, this Petition is accompanied by a deposit account fee authorization.

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Claims 14-39, 48, and 49 are pending in the application. Claims 29-39 were withdrawn from consideration. Applicant elected the subject matter of Species I with traverse.

Page 2 of the prior Office Action required election of a single species and restriction of claims; however, Applicant asserted that the species definitions were unclear and ambiguous. The Office Action defined Species I as an electronic apparatus fabrication method and Species II as a SOI integrated circuit fabrication method. The species definitions are ambiguous since no basis exists for a finding that they are independent and distinct. Applicant notes that a SOI integrated circuit fabrication method clearly constitutes one type of an electronic apparatus fabrication method. Thus, Species I is generic to Species II. No explanation existed in the prior Office Action regarding why the clearly generic Species I was nonetheless independent or distinct. The current Office Action in which the restriction was made final does not respond to Applicant's first ground for traversal.

Also, although unclear, page 2 of the prior Office Action appeared to define the species with respect to the claims, listing Species I as claims 14-28 and Species II as claims 29-39. The descriptive portions of the species definitions merely constitute the preambles of independent claims 14 and 29. Pursuant to MPEP 806.04(e), Applicant notes that "Claims are definitions of inventions. *Claims are never species . . . Species are always the specifically different embodiments.*" (Emphasis in original). Accordingly, relying upon the claims as defining species is improper. The current Office Action in which the

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restriction was made final does not respond to Applicant's second ground for traversal.

Further, prior page 2 of the Office Action stated that no claim is generic. Review of amended claim 14 in comparison to amended claim 29 reveals that amended claim 29 includes all of the limitations of amended claim 14. Also, a SOI integrated circuit of amended claim 29 constitutes an electronic apparatus, as set forth in amended claim 14. Thus, amended claim 14 is generic to amended claim 29. The current Office Action in which the restriction was made final does not respond to Applicant's third ground for traversal.

Applicant asserted that claims 14-39 read upon the elected species. Applicant traversed on the grounds that 1) the species restriction was improper, 2) the Office Action erred in associating only claims 14-28 with Species I, and 3) the Office Action erred in stating that no claim was generic. Applicant asserts that claims 14-39, 48, and 49 are entitled to consideration in the present application and requests examination to that effect in the next Office Action.

Respectfully submitted,

Dated: 01 Sep 2005

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